

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ANGELA FOX,

Plaintiff,

V.

KIA AMERICA, INC.,

Defendants.

Case No.:

Action Filed: August 22, 2023

Action Served: August 29, 2023

DEFENDANT KIA AMERICA, INC.'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, defendant Kia America, Inc. (“Kia”) hereby gives notice of removal of this action, captioned *Angela Fox v. Kia America, Inc.*, bearing civil action number CV 23 984319, from the Court of Common Pleas for Cuyahoga County, Ohio, to the United States District Court for the Northern District of Ohio. Pursuant to 28 U.S.C. § 1446(a), Kia provides the following statement for the grounds of removal:

BACKGROUND

On August 22, 2023, Plaintiff, Angela Fox, filed a Complaint in the Court of Common Pleas for Cuyahoga County, Ohio, against Kia. Kia accepted service of the Complaint via a registered agent on August 29, 2023. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served on Kia is attached hereto as Exhibit 1 (Complaint and service papers) and Exhibit 2 (other process, pleadings, and orders).

The Complaint asserts four causes of action against Kia: (1) common law absolute public nuisance; (2) common law qualified public nuisance; (3) negligence; and (4) product liability. Compl. ¶¶ 78-127. Kia believes removal is warranted based on diversity of citizenship.

VENUE AND JURISDICTION

Venue is proper in this Court pursuant to 28 U.S.C. §§ 115, 1391, 1441(a), and 1446(a) because the Court of Common Pleas for Cuyahoga County, Ohio, where the Complaint was filed, is a state court within the Northern District of Ohio.

This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a) because (I) there is complete diversity of citizenship between Plaintiff and Defendant; (II) the amount in controversy exceeds \$75,000, exclusive of interests and costs; and (III) Defendant has satisfied the procedural requirements for removal.

I. There is complete diversity of citizenship between Plaintiff and Defendant.

There is complete diversity of citizenship between the parties in this case. Plaintiff is an Ohio citizen. Compl. ¶ 1. Because Defendant Kia is a corporation, it is a citizen of any state in which it was incorporated and the state where it has its principal place of business. 28 U.S.C. § 1332. Kia was incorporated and has its principal place of business in California. Compl. ¶ 2. Therefore, there is complete diversity of citizenship between the parties.

II. The amount in controversy exceeds \$75,000.

“[A] defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co. v. Owens*, 574 U.S. 81, 88-89 (2014). “[W]hen a defendant seeks federal-court adjudication, the defendant’s amount-in-controversy allegation should be accepted when not contested by the plaintiff or questioned by the court.” *Id.* at 87. In determining whether the amount in controversy is satisfied, the Court may consider compensatory and statutory damages, as well as punitive damages. *Hayes v. Equitable Energy Res. Co.*, 266 F.3d 560, 572-73 (6th Cir. 2001). Here, the

amount-in-controversy requirement is satisfied because Plaintiff alleges damages “in excess of” \$15,000,000. Compl., at p. 27.

III. Defendant Has Satisfied the Procedural Requirements for Removal.

“The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.” 28 U.S.C. § 1446(b)(1). Defendant Kia received service of the Complaint on August 29, 2023. This Notice of Removal has been filed within 30 days after August 29. Defendant will provide written notice of this Notice to Plaintiff’s counsel of record and file written notice of this Notice (along with a true and complete copy hereof) in the corresponding action brought in the Court of Common Pleas for Cuyahoga County, Ohio, numbered CV 23 984319. Therefore, the Defendant has satisfied the procedural requirements for removal.

WHEREFORE, Defendant respectfully gives notice that the above-captioned civil action pending in the Cuyahoga County Court of Common Pleas is removed to this Court, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

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Respectfully submitted,

/s/ Brianna M. Prislipsky

Michael P. Gilbride (0062471)

Brianna M. Prislipsky (101170)

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Counsel for Defendant,

Kia America, Inc.

Dated: September 26, 2023

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of September 2023, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system. A copy is also being sent via electronic mail to the following:

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